

**Brocker, Peter (Law)**

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**From:** Elena Cohen <elenacohenesq@gmail.com>  
**Sent:** Tuesday, February 25, 2020 1:22 PM  
**To:** Brocker, Peter (Law)  
**Cc:** <Gideon@gideonlaw.com>; DiSenso, Anthony (Law)  
**Subject:** Re: Edrei, et al. - Rule 502(d) Proposed Order

Thanks, Peter. The stip you sent yesterday is acceptable to Plaintiffs.

On Tue, Feb 25, 2020 at 1:08 PM Brocker, Peter (Law) <[pbrocker@law.nyc.gov](mailto:pbrocker@law.nyc.gov)> wrote:

Good Afternoon Elena:

I believe that this was a standing form on Judge Peck's webpage for the SDNY. However, attached here please find the version he proposed to the Sedona Conference.

Because defendants need to have a 502(d) Order in place to produce ESI, I will be moving for a 502(d) Order as set forth in my email from yesterday at the close of business today. Please let me know plaintiff's position by 6:00 p.m.

Best,

Peter

\*\*\*

Peter W. Brocker, Esq.

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**From:** Elena Cohen [mailto:[elenacohenesq@gmail.com](mailto:elenacohenesq@gmail.com)]  
**Sent:** Monday, February 24, 2020 1:50 PM  
**To:** Bocker, Peter (Law)  
**Cc:** <[Gideon@gideonlaw.com](mailto:Gideon@gideonlaw.com)>; DiSenso, Anthony (Law)  
**Subject:** Re: Edrei, et al. - Rule 502(d) Proposed Order

Thanks, Peter. Will look this over now. Can you send me the order signed by Judge Peck that you are referring to, so I can compare with this order?

On Mon, Feb 24, 2020 at 1:21 PM Bocker, Peter (Law) <[pbrocker@law.nyc.gov](mailto:pbrocker@law.nyc.gov)> wrote:

Good Afternoon Elena:

In an effort to avoid any unnecessary delays, defendants are willing to use Judge Peck's Order – modified to reflect the correct judge as attached here. Please let me know if this is acceptable to plaintiffs so that I can file a motion requesting that the Court Order it as soon as possible.

Thanks in advance,

Peter

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**From:** Elena Cohen [mailto:[elenacohenesq@gmail.com](mailto:elenacohenesq@gmail.com)]  
**Sent:** Friday, February 21, 2020 2:21 PM  
**To:** Bocker, Peter (Law)  
**Cc:** <[Gideon@gideonlaw.com](mailto:Gideon@gideonlaw.com)>; DiSenso, Anthony (Law)  
**Subject:** Re: Edrei, et al. - Rule 502(d) Proposed Order

Hi Peter,

We are still willing to consider signing an agreement that memorializes rule 502(d). We do not see the need for, and have no interest in signing, anything broader.

Thanks,

Elena

On Thu, Feb 20, 2020 at 11:00 AM Bocker, Peter (Law) <[pbrocker@law.nyc.gov](mailto:pbrocker@law.nyc.gov)> wrote:

Good Morning Elena:

I just wanted to follow-up on where we stood with the proposed 502(d) Order and what plaintiffs position is, to the extent that it has changed? Are you amenable to the Order that Anthony sent a couple of weeks ago, in the *Karol* matter (re-attached here) or are there specific modifications that you need in order to agree to defendants' proposed order (re-attached here as word doc)?

Thanks in advance,

Peter

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**From:** DiSenso, Anthony (Law)  
**Sent:** Friday, February 07, 2020 3:52 PM  
**To:** 'Elena Cohen'  
**Cc:** Bocker, Peter (Law); <[Gideon@gideonlaw.com](mailto:Gideon@gideonlaw.com)>  
**Subject:** RE: Edrei, et al. - ESI discovery

My apologies, I was mistaken about the other case. Here is a recent order entered in a civil rights case as an example. This had some edits to it as well, which we remain open to discussing after receiving a mark-up with your proposed changes. Alternatively, we could use the same language in the attached.

**From:** Elena Cohen [<mailto:elenacohenesq@gmail.com>]  
**Sent:** Friday, February 07, 2020 2:28 PM  
**To:** DiSenso, Anthony (Law)  
**Cc:** Bocker, Peter (Law); <[Gideon@gideonlaw.com](mailto:Gideon@gideonlaw.com)>  
**Subject:** Re: Edrei, et al. - ESI discovery

Please compare the text of the orders to see how they are different.

Beyond that, no attorney we know has entered into any such order, and despite your representations to us that civil rights attorneys sign orders such as these regularly, you have not not provided us even *one* example. In any event, we are aware of our obligations under the Federal Rules and our ethical obligations in the event there is an inadvertent disclosure of privileged or confidential information. We see no need to enter into your proposed order, and we do not consent.

Thanks,

Elena

On Thu, Feb 6, 2020 at 6:00 PM DiSenso, Anthony (Law) <[adisenso@law.nyc.gov](mailto:adisenso@law.nyc.gov)> wrote:

Elena,

How are the orders different? Would you be amendable to the order entered in the other case?

**Anthony M. DiSenso**

Senior Counsel/E-Discovery Counsel

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Thanks,

Anthony

**From:** Elena Cohen [mailto:[elenacohenesq@gmail.com](mailto:elenacohenesq@gmail.com)]  
**Sent:** Thursday, February 06, 2020 5:18 PM  
**To:** Brocker, Peter (Law)  
**Cc:** <[Gideon@gideonlaw.com](mailto:Gideon@gideonlaw.com)>; DiSenso, Anthony (Law)  
**Subject:** Re: Edrei, et al. - ESI discovery

Thanks, Peter. I'll look out for that response tomorrow.

Regarding your proposed 502(d) order, we have reviewed the stipulation in the employment case you referenced, after retrieving it from the docket on ECF. That stipulation is different from the one that Defendants propose here. As I stated during our call, if you send me examples of *similar* cases where *this* stipulation has been entered, Plaintiffs will consider your request about this order further. Please provide any such stipulations in Word format or text-searchable PDF and please identify by caption and docket entry number the case(s) in which each stipulation was entered into. Otherwise, for the reasons discussed on our call, we will not be agreeing to your stipulation beyond signing something that memorializes 502(d), which is our compromise absent any further compromise from you.

Regarding testing the LRAD 100X, we will schedule inspecting and/or testing the LRAD 100x once we have received at least the outstanding *Monell* document discovery by the end of February. We suggest revisiting this scheduling issue in early March.

Best,

Elena

On Thu, Feb 6, 2020 at 3:55 PM Brocker, Peter (Law) <[pbrocker@law.nyc.gov](mailto:pbrocker@law.nyc.gov)> wrote:

Good Afternoon Elena:

Defendants will have a response to your second deficiency letter to you by close of business tomorrow; apologies for the delay.

I also wanted to follow-up on the proposed 502(d) Order in light of our previous exchange in which I provided the matter in which it has been entered. Please let me know plaintiff's position by tomorrow, as well.

Finally, can you send over a few dates that work for plaintiffs to test the LRAD 100X? I would like to arrange that testing as soon as possible as well.

Best,

Peter

\*\*\*

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**From:** Elena Cohen [mailto:[elenacohenesq@gmail.com](mailto:elenacohenesq@gmail.com)]

**Sent:** Thursday, February 06, 2020 2:55 PM

**To:** Bocker, Peter (Law)

**Cc:** <Gideon@gideonlaw.com>; DiSenso, Anthony (Law)  
**Subject:** Re: Edrei, et al. - ESI discovery

Dear Peter,

I write to follow up on Plaintiff's letter dated January 31, 2020, in which we requested you reply by Tuesday, February 4. This date has now come and gone. Please let me know when we will have your formal response.

Thanks,

Elena

On Fri, Jan 31, 2020 at 5:21 PM Elena Cohen <[elenacohenesq@gmail.com](mailto:elenacohenesq@gmail.com)> wrote:

Dear Peter,

Please see attached.

Best,

Elena

On Fri, Jan 31, 2020 at 9:46 AM Brocker, Peter (Law) <[pbrocker@law.nyc.gov](mailto:pbrocker@law.nyc.gov)> wrote:

Good Morning Elena & Gideon:

I just wanted to follow-up on defendants proposed ESI search parameters to see if plaintiffs had any objections before the time and cost of running the search is expended. We anticipate searching, as specified, Monday morning if we have not heard from you.

Best,

Peter

\*\*\*

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